



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 35]

नई दिल्ली, शुक्रवार, दिसम्बर 29, 2017/पौष 8, 1939 (शक)

No. 35]

NEW DELHI, FRIDAY, DECEMBER 29, 2017/PAUSHA 8, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 29th December, 2017:—

I

BILL NO. XVI OF 2017

A Bill to establish a Labour Welfare and Rehabilitation Authority to look into the dynamic trends in the labour market, provide for schemes to give interest free loans to workers un-employed for certain periods, issue guidelines for social sector schemes including universal basic income for all working in private and public sector, provide for wages during non-work time for seasonally employed workers, provide for hardship bonus for plantation workers, formulate schemes for rehabilitation of workers of closed industries and for all matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Labour (Welfare and Rehabilitation) Act, 2017.

Short title, extent
and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazettee, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Annual Report" means a report giving the details of developmental activities taken up over the year by the Authority and detailing about targets set and achieved;

(b) "appropriate Government" means in the case of a State or a Union Territory having legislature, the concerned State Government or the Union Territory Government, as the case may be, and in all other cases, the Central Government;

(c) "Authority" means the Labour Welfare and Rehabilitation Authority established under section 3;

(d) "health certificate" means a document signed by a competent health authority providing proof that person is healthy and competent to work;

(e) "prescribed" means prescribed by the rules made under this Act.

Constitution of
Labour Welfare
and
Rehabilitation
Authority.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, for the purposes of this Act, an Authority, to be known as the Labour Welfare and Rehabilitation Authority consisting of the following members, namely:—

(a) Union Minister of State in the Ministry of Labour and Employment—*ex officio* Chairperson;

(b) Secretaries of the Union Ministries of Labour and Employment, Heavy Industries and Statistics and Programme Implementation—*ex officio* Members;

(c) Director General V.V. Giri National Labour Institute—*ex officio* Members;

(d) Director, Central Board for Workers Education, Union Ministry of Labour and Employment—*ex officio* Member;

(e) Director, Directorate General of Employment Union Ministry of Labour and Employment—*ex officio* Member.

(2) The Central Government shall appoint such number of officers and staff as it considers necessary for the functioning of the Authority.

(3) The salary, allowances and terms of conditions of services of officers and staff of the Authority shall be such, as may be prescribed from time to time.

(4) The head office of the Authority shall be at New Delhi and the Authority may establish offices at other places in the country as it may deem necessary for carrying out the purposes of this Act.

Meetings of
the Authority.

4. (1) The Authority shall meet at such intervals and places and shall determine its own procedure in regard to transaction of business at its meetings as may be prescribed by the Central Government.

(2) The expenditure incurred to attend meetings by the Members referred to in sub-clauses (a) to (e) of section 3, shall be borne by their concerned controlling authorities.

Functions of
the Authority.

5. (1) The Authority shall discharge such functions as it may deem necessary to ensure welfare and rehabilitation of workers in the country and formulate a comprehensive policy within one year of its constitution for carrying out the purposes of the Act.

(2) Without prejudice to the provisions contained in sub-section (1), the functions of the Authority shall include to:—

(a) undertake a baseline study to collect comprehensive data about the existing minimum working standards in all industries and necessary data on the labour industry which shall be completed within one year of setting up of the Authority;

(b) formulate a scheme for giving interest free loans for workers who are un-employed upto a certain period till they get employment;

(c) recommend to the appropriate Government to formulate social security schemes including a universal basic income for all workers in private and public enterprises;

(d) formulate a scheme for providing wages all through the year for those employed seasonally;

(e) study and recommend schemes including hardships bonus for workers in the plantation sector and other heavy industry sector;

(f) study existing safety guidelines for workers and formulate a comprehensive set of common guidelines for workers keeping in line with international standards;

(g) undertake organisation of labour fairs and labour awards region-wise and sector-wise for creating greater awareness on importance of a high quality labour force;

(h) create an establishment to maintain data of workers of closed sick industries and to formulate schemes for the welfare of such workers;

(i) undertake, promote and publish studies relating to the importance of labour safety standards and welfare; and

(j) undertake such other activities as may be prescribed by the Central Government.

(3) The Authority shall disseminate the necessary knowledge and information collected, to the respective department of the Central Government and the State Governments.

6. (1) The Authority shall prepare once every year in such form and at such time as may be prescribed, an Annual Report giving the summary of its activities including schemes it has undertaken and recommended to the Government during the previous year and it shall contain statements of Annual Accounts of the Authority.

Annual Report and its laying before Parliament.

(2) A Copy of the Annual Report shall be forwarded to the Central Government, and the Central Government shall cause the Annual Report to be laid as soon as may be after it is received, before each House of Parliament.

7. The Central Government shall from time to time provide, after due appropriation made by Parliament by law in this behalf, requisite funds for carrying out the purposes of this Act.

Central Government to provide funds.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty.

Power to remove difficulty.

9. The Central Government, in consultation with the State Governments, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

India is being termed as the next big economic powerhouse and recently we surpassed China to become the fastest growing economy in the World. The challenge that we as a country face though is to ensure better labour market conditions to couple with this high growth rate. Vast majority of workers in our country still work in the informal sector. Though there has been a shift of workforce from agriculture to the manufacturing sector, still majority of the workforce are out of the social security net provided by existing legislations.

Data shows that between 2004-05 and 2011-12, the share of workers in unorganised sector fell from 86% to 82%. At the same time though, the informal workers in the organised sector (contract and other forms of casual labour) increased. These workers do not have access to proper social security. As of 2011-12, 79% of the non-agricultural wage workers had no written contract. Unemployment rates among skilled workforce is also high. Favourable policy needs to be put in place to capitalise on the demographic dividend of the country and to keep up with the changing trends in the labour market.

This Bill aims at creating a Labour Welfare and Rehabilitation Authority, to study the dynamic trends in the labour market and provide for actionable schemes. The Authority shall provide for a scheme to give interest free loans for those un-employed upto a certain period until they get a job. This Authority will issue guidelines for a social security scheme which shall be applicable for all private and Government workers which will include a minimum basic income. Those who have seasonal employment will be given the same wages for the other months when they don't have work. The Authority will also make a study of plantation workers and other heavy factory workers and provide for a scheme to give hardships bonuses for labourers in these sectors. This will also include framing uniform safety guidelines relating to working conditions in these sectors. It will also be responsible for conducting labour fairs and also constitute labour awards sector-wise to enthuse the worker community. A body to rehabilitate workers from closed or sick industries will be formed by this Authority.

The economic growth is sustainable only as long as the quality of the labour force is maintained. A well-nourished labour market is the fuel which drives this growth engine. Since a large number of workers are not covered within the ambit of existing laws, this Bill provides for the necessary safety net. By providing for these measures, it will be the much needed antidote required for a faster and more inclusive growth within the country.

Hence this Bill.

VIVEK GUPTA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of the Labour Welfare and Rehabilitation Authority and also appointment of such number of officers and staffs for its functioning. Clause 7 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve recurring expenditure of three thousand crore rupees per annum from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

II

BILL NO. XVII OF 2017

A Bill to establish a Women Empowerment and Welfare Authority to provide for monthly incentive schemes for girl Children to delay marriage until age of twenty one years, special saving schemes for women with higher rate of interests inclusive of annual bonus if husband is non-alcoholic, special fund for micro credit schemes, guidelines for mobile healthcare facilities for agricultural labour, regulation of private placement agencies, schemes for widows and for all matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Women (Empowerment and Welfare) Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "annual report" means a report giving the details of developmental activities

taken up over the year by the authority and detailing about targets set and achieved;

(b) "appropriate Government" means in the case of a State or a Union territory having legislature, the concerned State Government or the Union Territory Government, as the case may be, and in all other cases, the Central Government.

(c) "authority" means the Women Empowerment and Welfare Authority established under section 3;

(d) "domestic worker" means a woman employed to do work in or for a private household(s) which includes cooking, cleaning, gardening, childcare, and old-age care.

(e) "health certificate" means a document signed by a competent health authority providing proof that a person is non-alcoholic.

(f) "placement agency" means any agency or contractor, whether registered or otherwise, engaged in the placement of domestic workers with prospective employers.

(g) "prescribed" means prescribed by the rules made under this Act.

(h) "small family" means family having not more than two children.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, for the purposes of this act, an Authority, to be known as the Women Empowerment and Welfare Authority consisting of the following members, namely:—

Constitution of Women Empowerment and Welfare Authority.

(a) Union Minister, Ministry of Women and Child Development —*ex officio* Chairperson;

(b) Chairperson, National Commission for Women—*ex officio* Member;

(c) Secretaries of the Union Ministries of (i) Women and Child Development, (ii) Health and Family Welfare and (iii) Statistics and Programme Implementation—*ex officio* Members;

(d) Director General of Health Services, Ministry of Health and Family Welfare—*ex officio* Member;

(e) Director, National Institute of Health and Family Welfare—*ex officio* Member.

(2) The Central Government shall appoint such number of officers and staff as it considers necessary for the efficient functioning of the Authority under this Act.

(3) The qualifications and experience, salary, allowances and terms of conditions of services of officers and staff of the Authority shall be such, as may be prescribed.

4. (1) The Authority shall meet at such intervals and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by the Central Government.

Meetings of the Authority.

(2) The expenditure incurred to attend meetings by the Members referred to in sub-clauses (a) to (e) of section 3, shall be borne by their concerned controlling authorities.

5. (1) Subject to any guidelines issued by the Central Government under the provisions of this Act, the Authority shall perform and undertake such functions as may be necessary to ensure empowerment of women in the country and shall formulate a comprehensive policy within one year of its constitution to achieve the objective.

Functions of the Authority.

(2) Without prejudice to the provisions contained in sub-section (1), the functions of the Authority shall include to:—

(a) undertake a baseline study to collect comprehensive data about girl children

and their families above the age of eighteen which shall be completed within one year of setting up of the authority;

(b) formulate a monthly incentive scheme to provide for regular income to families having unmarried girl children upto the age of twenty one years;

(c) recommend to the Central Government to prepare a special savings schemes for woman with higher rates of interest;

(d) formulate a special bonus scheme for families where the husband produces health certificate;

(e) provide for funds to encourage micro credit for young women entrepreneurs;

(f) frame guidelines for agricultural land owners to provide for mobile health care facilities and social security cover for the women agricultural labour;

(g) recommend to the appropriate Government for formulating stringent regulations for private placement agencies and regulations for domestic workers;

(h) recommend to the appropriate Government for penalties for harassment of domestic workers;

(i) establish a separate widow welfare board to look into collecting data on widowed woman and formulating rehabilitation schemes for widowed women;

(j) provide guidelines to the appropriate Government for establishing all woman police stations, banks and courts as district levles within specific timelines;

(k) undertake, promote and publish studies relating to the importance of woman empowerment;

(l) frame syllabus for including awareness about woman empowerment in school curriculum; and

(m) undertake such other activities as may be prescribed by the Central Government.

(3) The Authority shall disseminate necessary knowledge and information collected, to the respective departments of the Central and the State Governments.

Annual report and its laying before the parliament.

6. (1) The Authority shall prepare once in every year, in such form and at such time as may be prescribed, an Annual Report giving the summary of its activities, including schemes it has undertaken and recommended to the Government during the year and it shall contain statements of Annual Accounts of the Authority.

(2) A copy of the report shall be forwarded to the Central Government, and the Central Government shall lay the report before each House of Parliament.

Government to provide funds.

7. Tphe Central Government, shall from time to time provide, after due appropriation made by Parliament by law in this behalf, requisite funds for carrying out the purposes of this Act.

Power to remove difficulty.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government in consultation with the State Governments may make such order or give such direction not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty.

Power to make rules.

9. The Central Government, in consultation with the State Governments, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

'There is no chance for the welfare of the world unless the condition of woman is improved. It is not possible for a bird to fly on only one wing.' This was said by Swami Vivekananda when he was asked about welfare of woman. Out of the 125 crore citizens of this country, 65.2 crores are women. The sex ratio is 945 females per 1000 males. Though targeted welfare schemes, taken up by the Government over the past five decades for woman have resulted in better livelihood for them, still there is a lot more to be achieved. Literacy rates among woman in India is still lagging and the numbers relating to woman in the workforce is abysmal. Though our Constitution envisages to provide for equal means of livelihood and equal pay for men and woman, it is still a distant dream.

We pride ourselves as a country, with regard to our economic growth but this growth remains a façade, masking our low social indicators. Woman should be key players for this change to happen. Policy which aims at bringing higher proportion of woman into the workforce, as teachers, health care workers and skilled labour force in factories should be the first stepping stone towards this. Providing them with the weapon of education will give them this much required freedom.

This Bill, proposes to create a Women Empowerment and Welfare Authority to carry out major policy changes and provide for the necessary guidelines. This Authority will *inter alia* bring in monthly incentive schemes for families of girl children who have not been married until the age of twenty one. Also, special saving schemes shall be introduced for woman in every household with higher rates of interest and annual bonuses if husband produces a non-alcoholic certificate from government hospital. Special fund would be created to provide for micro credit to woman entrepreneurs who plan on start-ups just after their college education. Mobile health care facilities and social security cover would also be provided for agricultural labour working in their lands. It will regulate placement of agency and also organizing domestic workers under a newly formed body to safeguard their rights. A separate Widows welfare arm proposed to be created to provide for maintaining data on widowed woman in the country and to provide for a subsistence allowance to the needy.

This Bill, shall endeavour to create a positive and just social and economic environment for the woman of this country. Woman must be put in a position to solve their own problems in their own ways. The State must endeavour to take that extra effort to provide for the equal platform. This is what this Bill envisions, to offer the required momentum to kick start this process. Our country's journey to regain the status of '*Vishwa Guru*' will become a reality only if the woman folk of this great nation lead the way.

Hence this Bill.

VIVEK GUPTA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for Constitution of the Women Empowerment and Welfare Authority and appointment of officers and staffs for its functioning. Clause 7 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve recurring expenditure of five thousand crore rupees per annum from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

III

BILL NO. XXXIII OF 2017

A Bill to establish an Urban Areas Equitable Development Authority to provide for clean, hygienic maintenance of environment and public spaces, resettlement of people living in slums in decent housing facilities, issuing guidelines for employment of people in slums in the reconstruction activities, facilitating system of self policing among citizens, proper underground drainage and sewerage network, dedicated paths for pedestrians and cyclists, formulate policies for subsidising cycles and promoting eco-friendly transport, creation of community markets for hawkers and their resettlement in metro stations and subways, issuing licenses to hawkers, providing for minimum standards to be maintained by private hostels and paying guest accommodations and recommending their compulsory registration, framing guidelines for ensuring equal redistribution of economic and work opportunities in urban areas and for all matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Urban Areas (Equitable Development and Regulation) Act, 2017.

Short title extent
and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “annual report” means a report giving the details of developmental activities taken up over a year by the Authority and detailing about targets set and achieved;

(b) "appropriate Government" means in the case of a State or a Union territory having legislature, the concerned State Government or the Union Territory Government, as the case may be, and in all other cases, the Central Government;

(c) "Authority" means the Urban Areas Equitable Development Authority established under section 3;

(d) "community house" means resting areas for the homeless with aim of providing shelter, food and water, either run by the appropriate Government or in Public-Private Partnership mode;

(e) "cycle lane" means lanes along major roads dedicated to bicycles;

(f) "hawker" means seller of unregistered or informal units set up along the roads, on pavements, footpaths;

(g) "MGNREGA" means Mahatma Gandhi National Rural Employment Guarantee Act, 2005;

42 of 2005.

(h) "pavement" means elevated platform along both sides of the road for pedestrians;

(i) "prescribed" means prescribed by the rules made under this Act;

(j) "private hostel or paying guest accommodation" means facility providing accommodation and/or food to non-local students, working professionals and run by private individuals;

(k) "slum" means places of residence in urban areas with little living space, without proper ventilation, basic drinking water and sanitation facilities, often described as not fit for human habitation; and

(l) "urban agglomerations" means urban areas constituting a town and its adjoining outgrowths.

Constitution of
Urban Areas
Equitable
Development
Authority.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, for the purposes of this Act, an Authority, to be known as the Urban Areas Equitable Development Authority consisting of the following members, namely:—

(a) Minister of State, Ministry of Housing and Urban Affairs — *ex officio* Chairperson;

(b) Director General, Central Public Works Department (CPWD), Ministry of Housing and Urban Affairs — *ex officio* Vice-Chairperson;

(c) Secretaries of the Union Ministries of Housing and Urban Affairs and Statistics and Programme Implementation — *ex officio* Members;

(d) Chairperson, Housing and Urban Development Corporation Limited (HUDCO) — *ex officio* Member;

(e) Director, National Institute of Urban Affairs — *ex officio* Member;

(2) The Central Government shall appoint such number of officers and staff as it considers necessary for the functioning of the Authority.

(3) The salary, allowances and terms of conditions of services of officers and staff of the Authority shall be such, as may be prescribed.

Meetings of
the Authority.

4. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by the Central Government.

(2) The expenditure incurred by the Members referred to in sub-clauses (a) to (e) of section 3 to attend the meetings of the Authority shall be borne by their concerned controlling authorities.

5. (1) The Authority shall discharge such functions as may be necessary to ensure overall and equitable development of urban areas in the country and formulate a comprehensive policy within one year of setting up of the Authority to be put in action to achieve this objective.

Functions of
the Authority.

(2) Without prejudice to the provisions contained in sub-section (1), the functions of the Authority shall include to:—

(a) undertake a baseline study to collect comprehensive data about the dwelling conditions in slums, extent of coverage of underground sewerage system, surplus land under various Ministries of Government of India, the condition of pavements and cycle lanes, hawkers, status of migration into urban agglomerations and private hostels and paying guest accommodations which shall be completed within one year of setting up of the authority;

(b) formulate framework for re-construction of decent housing facilities for citizens residing in slums and resettlement of people therein which shall include to,—

(i) recommend to the Central Government of the land pooling of surplus lands with various Ministries, for the purpose of constructing houses for residents of slums;

(ii) recommend to the Central Government to include re-construction of dwelling areas in slums under MGNREGA;

(iii) issue guidelines to the appropriate Government for effective implementation of re-construction in slums; and

(iv) issue guidelines to the State Governments to employ the unemployed residents of the slum in the construction of houses for them;

(c) formulate guidelines for the construction of community houses for homeless destitutes in urban areas;

(d) provide strict rules to the appropriate Government prohibiting littering on roads and public spaces, which shall include to,—

(i) recommend to the State Governments the system of self policing by citizen volunteers for maintenance of clean and hygienic environment; and

(ii) recommend to the State Governments of increased fine of upto five thousand rupees for littering;

(e) recommend to the State Governments to recognise a unit as a municipality, only if more than ninety-five percent of the households are connected with underground sewerage network, which shall include to,—

(i) establish framework for construction of underground sewerage work; and

(ii) assist the State Governments in undertaking the construction of underground drainage system;

(f) provide guidelines to the Central Government for improving the condition of pavements for pedestrians which shall include to,—

(i) recommend to the Central Government of the minimum size of the footpath, on all major roads with traffic; and

(ii) issue guidelines to the State Government regarding maintenance of the footpaths and pavements;

(g) recommend to the Central Government for compulsory lanes for cycles on all major roads with traffic and National Highways, which shall include to,—

- (i) formulate policy of subsidising customers for cycle purchases; and
 - (ii) frame guidelines for the State Governments to promote eco-friendly means of transport;
 - (h) establish policy guidelines for construction of community markets for hawkers in urban areas, which shall include to, —
 - (i) frame guidelines for the appropriate Government for resettlement of hawkers in metro stations and subways;
 - (ii) issue guidelines to the State Government regarding compulsory licensing of the hawkers; and
 - (iii) formulate guidelines to the State Government for checking the harassment of hawkers by policing authorities;
 - (i) recommend to the Central Government regarding regulating the private hostels and paying guest accommodations in urban areas, which shall include to, —
 - (i) prescribe minimum standards for basic amenities like food, rent chargeable, area of living space, along with any other safety specifications it may see fit; and
 - (ii) formulate procedure for compulsory registration of private hostels and paying guest accommodations in urban areas;
 - (j) formulate framework for equal distribution of work opportunities between different urban centres, which shall include to,—
 - (i) provide guidelines to the State Government for disincentivising companies and imposing fee on the companies which set up their office in tier I cities;
 - (ii) provide guidelines to the State Government for incentivising the employee to work in towns (with less than 10 lakh population) *vis-a-vis* cities; and
 - (iii) develop Hardship Index, whose value on a scale from 1 to 100 will rank the urban areas of the country, based on set of predetermined criteria including— distance of the urban area from the sea, climate and geographical accessibility of the area by flights and other means of transport, and other criteria as may be prescribed by Authority; and
 - (k) recommend to the Central Government any other activity related to urban development; and
 - (l) undertake such other activities as may be prescribed by the Central Government.
- (3) The Authority shall disseminate any necessary knowledge and information collected, to the respective departments of the State Governments.

Annual report and its laying before the Parliament.

6. (1) The Authority shall prepare once every year, as may be prescribed, an annual report giving the summary of its activities, including schemes it has undertaken and recommended to the Government during the previous year and it shall contain statements of annual accounts of the Authority.

(2) A copy of the report shall be forwarded to the Central Government, and the Central Government shall lay the report before each House of Parliament as soon as it is received.

Central Government to provide funds.

7. The Central Government, shall from time to time provide, after due appropriation made by Parliament by law in this behalf, requisite funds for carrying out the purposes of this Act.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty.

Power to
remove
difficulty.

9. The Central Government, in consultation with the State Governments, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

In the last 15 years, India underwent rapid urbanization. Urban population in India grew by 2.76 percent per annum during 2001-11 to an estimate of 377.1 million. The level of urbanization in the country as a whole, defined as the proportion of urban population to total population, increased from 27.82 percent in 2001 to 31.14 percent in 2011. This migration from farm labour to industry, is mainly because of over employment in agriculture and lack of infrastructure related to education, health care in rural areas. Indian cities are not designed to handle this kind of population influx from villages. This has put pressure on urban facilities and services reflected in lack of dwelling facilities, clean and hygienic environment, proper drainage and sewerage networks, dedicated paths for pedestrians and cyclists, encroachment by hawkers among others rapid urbanization has resulted in lack of decent housing facilities, especially for the urban poor. High demand for the land in urban areas and the implied high prices of land has led to steady growth of slums and unplanned settlements. Presence of slums within urban areas, puts pressure on its civic services and impacts the overall urban service delivery. With a view to provide a permanent solution for the problem, the Bill constitutes an authority for resettlement of the people dwelling in the slums in urban areas, which will utilise the surplus land of the Government to build houses for people living in slums. For homeless destitutes who spend the nights on footpaths of roads, the Bill provides similar alternative.

To maintain clean and hygienic environment in urban areas, the Bill proposes prohibition of littering on roads and public spaces, through system of self-policing by the citizen volunteers. It also provides for compulsory underground sewerage network properly connecting all houses in a municipality. It also imposes stringent conditions to be imposed on the local bodies and a unit to be termed as a municipality only if it satisfies the above underground sewerage network.

The Bill formulates minimum size for footpaths, which must be made compulsory on all major roads with traffic, to address the poor condition of the pavements and absence of cycle lanes. The Bill also provides for dedicated lanes for cyclists, along all major roads and highways of the country and providing subsidy on cycle purchases to customers. To address the harassment faced by hawkers from the policing authorities, the Bill directs the appropriate Government to issue licenses to these vendors, construct dedicated community markets for hawkers and resettle them in metros and subways.

The cities are usually face an influx of migration of people searching for better education and job opportunities, increasing demand for hostels. The Bill proposes to regulate the private hostels by making their registration compulsory and prescribing minimum standards for basic amenities like quality of food, rent chargeable, area of living space etc. To ensure equal distribution of work opportunities among its citizens in cities and towns, the Bill imposes a fee on the companies setting up their branches in tier I cities. Such proposed fee will act as a disincentive for the companies and propel them to open more of their offices in tier II and tier III cities and towns. Such a scheme will work as an effective mechanism for redistribution of opportunities. To incentivise employee to work in these towns (with less than 10 lakh population) *vis-a-vis* cities, the Bill proposes a Hardship Index whose value on a scale of 1 to 100 will rank the towns and regions of work, based on their relative appeal. Criteria for deciding such appeal of towns, will include distance of town from the sea, its overall weather condition, its accessibility by flight and other means of transport among others. And the salary of the employees will be calculated in proportion to this Index. Such provision will also help in augmenting the urban infrastructure in tier II and tier III cities and towns.

Finally, the Bill seeks the public expenditure on urban development. While revenue expenditure by the Government for urban development stood at a mere 8 percent of total expenditure, share of capital expenditure was even low at 6 percent in 2011-12. The Bill proposes that the Government must increase its expenditure on urban development and its allocation to the States.

The Bill endeavours to enable urban dwellers access to basic urban services of decent housing facilities, clean and hygienic environment and overall development of infrastructure in urban areas, as enshrined in the Directive Principles of State Policy in the Constitution.

Hence this Bill.

VIVEK GUPTA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of Urban Areas Equitable Development Authority and also appointment of such number of officers and staffs for its functioning. Clause 7 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve recurring expenditure of five hundred crore rupees per annum from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

IV

BILL NO. XXXII OF 2017

A Bill to protect the human rights of persons affected by leprosy, to eliminate discrimination against them and their families, to promote their social welfare, to take steps for the prevention and control of leprosy and for matters connected therewith or incidental thereto.

WHEREAS the spread of leprosy and discrimination against persons affected by leprosy and their family members is a matter of grave concern to all, and there is an urgent need for the protection of the human rights of such persons, by repealing and amending existing laws the discriminate against them;

AND WHEREAS there is a necessity for effective care, support, treatment and social inclusion and integration of persons affected by leprosy and their families;

AND WHEREAS the Rights of Persons with Disabilities Act, 2016 does not cover persons affected by leprosy that are still to be diagnosed or those undergoing treatment and also does not recognise the discrimination and stigma faced by the family members of persons affected and cured of leprosy;

AND WHEREAS the General Assembly of the United Nations, of which India is a member, recalling and reaffirming its previous commitments on leprosy, has unanimously adopted a Resolution on the Elimination of Discrimination against Persons affected by Leprosy and their Family Members in 2010, accompanied by Principals and Guidelines listing out measures to improve the living conditions and social inclusion of such persons;

AND WHEREAS the United Nations Convention on the Rights of Persons with Disabilities 2006 (“UNCRPD”) to which India is a party, promotes, protects and ensures the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities;

AND WHEREAS the Republic of India, having signed the Resolution of the General Assembly of the United Nations on leprosy and having signed and ratified the UNCRPD, 2006 has to make provision to give effect to the said Resolution and Convention;

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Right of Persons Affected by Leprosy and Members of their Family (Protection against Discrimination and Guarantee of Social Welfare) Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) ‘abuse’ means any unwelcome verbal or non-verbal act or behaviour towards a person affected by leprosy or a member of the family of a person affected by leprosy which causes:—

(i) bodily pain or harm to a person affected by leprosy or a member of the family of a person affected by leprosy;

(ii) humiliation or embarrassment to a person affected by leprosy or a member of the family of a person affected by leprosy; or

(iii) deprivation of economic and financial resources, foods and fluids or any other form of support, to which a person affected by leprosy or a member of the family of a person affected by leprosy is entitled:

Provided that the word ‘leper’ shall be included with in the meaning of ‘abuse’ when any person affected by leprosy is referred to by such word;

(b) ‘appropriated Government’ means;

(i) in relation to an establishment of the Central Government, or any establishment, wholly or substantially owned or financed by that Government or a Cantonment Board constituted under the Cantonments Act, 2006, or a Union Territory without legislature, or the provider of a service which pertains to List I in Schedule VII of the Constitution, the Central Government;

(ii) in all other cases, the State Government or, as the case may be, the Government of a Union Territory with legislature.

(c) ‘barrier’ means any factor including attitudinal, cultural, economic, institutional, political, religious, social or structural factors which hampers the full and effective participation, of a person affected by leprosy or a member of the family of a person affected by leprosy in society;

(d) 'disability due to leprosy' means grade 1 or grade 2 disability in the hand, leg or eye that hinders full and effective participation of a person affected by leprosy in society equally with others, whether or not his or her extent of disability has been specified in measurable terms;

Explanation—

(i) Grade 1 disability means sensory impairment, scars with sensory impairment or muscle weakness without contractures.

(ii) Grade 2 disability means visible impairment, *Lagophthalmos*, *Iridocyclitis*, visual acuity of <6/60, burns, deep cracks, wounds (both simple and deep ulcers), muscle atrophy, bone absorption of shortening or contractures.

(e) 'discrimination' means any act or mission which directly or indirectly, expressly or by effect, immediately or over a period of time—

(i) imposes any burden, obligation, liability, disability or disadvantage on any person or category of persons, who are either effected by leprosy or associated with persons affected by leprosy; or

(ii) denies, restricts or withholds any benefit, opportunity or advantage from any person or category of persons, who are either affected by leprosy or associated with persons affected by leprosy, including denial of employment, movement in public spaces and reasonable accommodation;

and the expression "discriminate" is to be construed accordingly.

(f) 'establishment' means and includes a company, club, firm or any other body corporate or association of persons jointly carrying out a systematic activity for consideration or otherwise including but not limited to:

(i) a society registered under the Societies Registration Act, 1860, or a co-operative society under the Co-operative Societies Act, 1912; 21 of 1860.
2 of 1912.

(ii) a trust under the Indian Trusts Act, 1882 or corresponding state law under which trusts may be established; 2 of 1882.

(iii) any organisation or institution or authority established by or under a Central Act or State Act or otherwise;

(iv) any industry under section 2(j) of the Industrial Disputes Act, 1947; or 14 of 1947.

(v) any shop or establishment governed by a State Act concerning such shops and establishments;

(g) 'exploitation' means any form of conduct which is intended for a commercial purpose, whether for money or kind, and which results in the misuse or unjust treatment of a person affected by leprosy or the member of the family of a person affected by leprosy;

(h) 'healthcare provider' means and includes,—

(i) any individual whose vocation or profession is directly or indirectly related to the maintenance of the health of another individual and includes any physician, nurse, paramedic, therapist, psychologist, counsellor or other individual providing medical, nursing, psychological or other healthcare, services, including treatment through Multi-Drug Therapy; or

(ii) any public or private clinical establishment as defined under clause (c) of section 2 of the Clinical Establishments (Registration and Regulation) Act, 2010;

23 of 2010. 45

(i) 'informed consent' means consent given by a person affected by leprosy or a representative of such person specific to a proposed intervention without any coercion,

undue influence, fraud, mistake or misrepresentation and after informing such person or his or her representative, as the case may be, such information as prescribed in the rules, relating to risks and benefits of, and alternatives to, the proposed intervention in such language and in such manner as understood by that the person affected by leprosy or his or her representative, as the case may be;

(i) 'local authority' means a municipality, a Cantonment Board, a Panchayat or any other authority, established under an Act of Parliament, or a State Legislature to administer the civic affairs of any habitation as defined in or under such Act;

(j) 'leprosy' means a disease triggered by *Mycobacterium Leprae* characterised by symptoms of pale and reddish skin, numbness of hands or feet or loss of feeling in a patch of skins, and which may lead to disability as defined under clause (d) of this section;

(k) 'leprosy cured person' means, notwithstanding any thing in the Rights of Persons with Disabilities Act, 2016 or any other law pertaining to persons with disability, any person affected by leprosy, regardless of the percentage of his disability, who has been certified by a registered medical practitioner, as having been administered with the first dose under Multi-Drug Therapy, (MDT) which renders his illness non-infectious, or has completed treatment for leprosy; 49 of 2016.

(l) 'multi-drug therapy' (MDT) means the medical treatment wherein a combination of drugs is administered to a person affected by leprosy to render the infection non-contagious and kill *Mycobacterium Leprae*;

(m) 'members of the family of persons affected by leprosy' means and includes—

- (i) spouse;
- (ii) parents;
- (iii) children; and
- (iv) brothers or sisters

of the person affected by leprosy.

(n) 'person affected by leprosy'—means and includes a person who suffers from, or has previously suffered from or has been cured of leprosy, whether or not such person has undergone treatment under MDT;

(o) 'prescribed' means prescribed by rules made by the appropriate Government under this Act;

(p) 'public building' means a building, irrespective of ownership, which is used and accessed by the public at large; and includes its entrance, exit, parking space, footpath and other appurtenant lands;

(q) 'reasonable accommodation' means necessary and appropriate modification and adjustments, not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to a person affected by leprosy the enjoyment or exercise of this or her fundamental rights and freedoms on an equal basis with others;

(r) 'services' means any provision, facility, utility or any other assistance provided in any form to a person or persons affected by leprosy, or a member or members of the family of a person affected by leprosy and includes services relating to banking and finance; education; health; insurance; rehabilitation; recreation and hospitality; transport or travel; and telecommunications, and such other services which may be notified by the Central Government;

(s) 'violence' means any act of commission or omission which causes physical, emotional, psychological harm or injury to a person affected by leprosy or a member of the family of a person affected by leprosy.

3. The appropriate Government and local authorities shall secure for persons affected by leprosy and members of the family of persons affected by leprosy:—

Guiding Principles.

- (a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) non-discrimination;
- (c) full and effective participation and inclusion in society; and
- (d) equality of opportunity.

CHAPTER II

RIGHTS AND ENTITLEMENTS

4. (1) No person, establishment or appropriate Government shall discriminate against any person affected by leprosy solely on the ground of his or her affliction, disability, or physical attributes, or against any member of the family of the person affected by leprosy solely on the ground of his or her association with a person affected by leprosy.

Right to Equality and Non-Discrimination.

(2) The appropriate Government shall take all necessary steps to ensure that persons affected by leprosy and members of the family of persons affected by leprosy enjoy the right to equality before the law and equal protection of laws.

5. (1) No establishment, of appropriate Government or person, shall subject a person affected by leprosy, where such person duly furnishes a certificate of a registered medical practitioner that attests that such person has been administered with the first dose under MDT or has been cured of leprosy, or a member of the family of a person affected by leprosy to the following, namely:—

Prohibition of Discrimination.

- (a) the denial of, termination from, or the unfair treatment in, or in relation to, employment or occupation;
- (b) the denial of, or the unfair treatment in, or in relation to, departmental promotions in employment or occupation;
- (c) the denial or discontinuation of, or, unfair treatment, in healthcare services;
- (d) the denial or discontinuation of, or unfair treatment in, educational establishments and services thereof;
- (e) the denial or discontinuation of or unfair treatment with regard to access to, or the provision of, or the enjoyment of, or the use of any good, accommodation, service, facility, benefit, privilege, or opportunity dedicated to the use of the general public or customarily available to the public, whether or not for a fee, including shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats, roads, burial grounds or funeral ceremonies and places of public resort;
- (f) the denial, or, discontinuation of, or unfair treatment with regard to, the right of movement;
- (g) the denial or discontinuation of, or, unfair treatment with regard to, the right to reside, purchase, rent, sale, transfer or otherwise occupy, any property;
- (h) the denial or discontinuation of, or, unfair treatment in, the opportunity to stand for, or, hold public or private office;
- (i) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody the person may be;
- (j) the denial of, or unfair treatment in, the provision of insurance;
- (k) the unfair treatment in, or in relation to, adoption, inheritance, and marital relations; and
- (l) the isolation or segregation in any form.

Right to life and personal liberty.

6. (1) The appropriate Government shall take necessary steps to ensure that persons affected by leprosy and members of the family of persons affected by leprosy enjoy the right to life with dignity, and respect for their personal liberty on an equal basis with others.

(2) No person shall be deprived of his personal liberty only on the ground of being affected by leprosy or being associated with a person affected by leprosy in any manner.

Right to own property.

7. (1) No person affected by leprosy, or a member of the family of a person affected by leprosy, shall be denied the right to own property or to reside, purchase, sale, rent, use, transfer or otherwise occupy any property, merely for reason of such person being affected by leprosy, or being a member of the family of a person affected by leprosy.

(2) No person affected by leprosy or a member of the family of a person affected by leprosy shall be removed, or evicted from an existing settlement occupied by other persons affected by leprosy and members of the family of such persons without prior sanction from the Ombudsperson, appointed under section 28 of this Act, and without being rehabilitated and adequately compensated.

(3) The appropriate Government and local authorities shall take appropriate measures, as far as possible, to ensure full enjoyment of the rights as mentioned in sub-section (1) by:—

(a) securing the tenure, title and ownership of property to each person affected by leprosy and member of the family of a person affected by leprosy, who are living in existing settlements that are occupied only by persons affected by leprosy and members of the family of persons affected by leprosy; and

(b) ensuring that such existing settlements are accessible, as per the accessibility standards formulated by the Central Government under section 40 of the Rights of Persons with Disabilities Act, 2016, with sanitary and other community support services, including such the assistance necessary to support living, and inclusion within the community, as may be prescribed.

49 of 2016.

Right to form a family.

8. No person affected by leprosy, or any member of the family of a person affected by leprosy shall be denied the right to marry, or form a family, including the right to adoption, or assisted procreation, including donor insemination.

Right to participation.

9. The appropriate Government and local authorities shall take appropriate measures to ensure the participation of persons affected by leprosy, members of the family of persons affected by leprosy or the representatives of such persons in the decisions that directly affect such persons under this Act.

Access to medical treatment.

10. (1) No healthcare provider shall deny a person affected by leprosy access to any form of treatment for leprosy.

(2) Every healthcare provider shall ensure that every person affected by leprosy has access to all healthcare facilities, goods and services that are available with the healthcare provider and which are necessary for recovering from leprosy and its consequent wounds, deformities and disabilities.

Access to welfare measures by the Central and State Government.

11. No person or establishment shall deny a person affected by leprosy or member of the family of a person affected by leprosy, access to welfare schemes, provided under Chapter V of this Act.

Protection from torture, or cruel, inhuman or degrading treatment or punishment.

12. No person or establishment shall subject a person affected by leprosy or a member of the family of persons affected by leprosy to torture, or cruel, inhuman or degrading treatment, or punishment.

Protection
from abuse,
violence and
exploitation.

13. (1) No person or establishment shall subject a person affected by leprosy or a member of the family of persons affected by leprosy, to any form of abuse, violence or exploitation, both within and outside of home.

(2) The appropriate Government and local authorities shall take all appropriate administrative, social, educational and other measures to protect persons affected by leprosy and members of the family of persons affected by leprosy, from all forms of abuse, violence and exploitation, both within and outside of home.

(3) Any person, or registered organization who or which has reasons to believe that an act of abuse, violence or exploitation has been, or is being, or is likely to be committed against any person affected by leprosy or members of family of a person affected by leprosy, may give information about it to the Executive Magistrate in whose jurisdiction such incident occurs or is likely to occur, who, on receipt of such information, shall take immediate steps to stop it or prevent its occurrence as the case may be, or pass such order as he deems fit for the protection of such person including an order—

(a) to rescue such persons by authorizing the police or any reliable organisation working for the benefit of persons affected by leprosy to provide for the safe custody and rehabilitation of such persons;

(b) to provide protective custody to such persons if he or she so desires; or

(c) to provide compensation to such person, in such manner, as may be prescribed.

(4) No civil or criminal liability shall be incurred by any person, including a person affected by leprosy or a member of the family of a person affected by leprosy, who is good faith furnishes information under sub-section (3);

(5) Any police officer, who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards a person affected by leprosy or a member of the family of a person affected by leprosy, shall take all steps necessary to ensure that the aggrieved person is:

(a) informed of and able to exercise his or her right to report the abuse, violence or exploitation and apply for protection under sub-section (3);

(b) informed of the particulars of the Executive Magistrate having jurisdiction to provide assistance to such person;

(c) informed of and directed to the nearest organization or institution working for the rehabilitation of persons affected by leprosy, who have been subjected to abuse, violence or exploitation.

39 of 1987.

(d) informed of and able to exercise his or her right to access free legal services under the Legal Services Authorities Act, 1987 and any other service or services offered by the National Legal Services Authority or the State Legal Services Authority for the benefit of such person; and

45 of 1860.

(e) informed of and able to exercise his or her right to file a complaint under the relevant provisions of the Indian Penal Code, 1860, or any other law dealing with such crimes:

Provided that nothing in this section shall be construed to free such police officer of his or her obligation to proceed in accordance with this Act, or any other law for the time being in force, upon the receipt of information as to the commission of a cognizable offence.

45 of 1860.

(6) If the Executive Magistrate determines that the alleged act or behaviour is an offence under the Indian Penal Code, 1860, or under any other law which imposes criminal sanctions on such acts, the Executive Magistrate shall forward a complaint to that effect to the Judicial or Metropolitan Magistrate, as the case may be, having jurisdiction in the matter,

whereupon the latter shall act on it in accordance with the law, and within six months from the date on which the information relating to the complaint is received by the former.

(7) The appropriate Government shall take all measures necessary to prevent all forms of abuse, violence and exploitation against persons affected by leprosy and members of the family of persons affected by leprosy by, *inter alia* providing information and raising awareness on:

- (a) illegality of incidents of abuse, violence and exploitation against persons affected by leprosy and members of the family of persons affected by leprosy;
- (b) the legal remedies available to persons affected by leprosy and members of the family of persons affected by leprosy against such incidents;
- (c) the legal consequences of such incidents;
- (d) the steps to be taken for avoiding such incidents;
- (e) the procedure for reporting such incidents; and
- (f) the steps required for the rescue, protection and rehabilitation of persons who have been victims of such incidents.

CHAPTER III

EDUCATION

Duty of educational institutions to provide inclusive education.

14. (1) The appropriate Government and local authorities shall ensure that all educational institutions that are wholly or partially funded, or recognized by the appropriate Government or local authorities, provide inclusive education, and *inter alia*—

- (i) admit students affected by leprosy or those whose family member is affected by leprosy, without discrimination, and provide them education appropriate to their age, or mental or physical development, as also opportunities for sports, recreation and leisure activities on an equal basis with others;
- (ii) provide reasonable accommodation that is tailored to the requirements of each student affected by leprosy;
- (iii) provide necessary support in environments that maximize the academic and social development of each student affected by leprosy, and assist him or her in reaching his or her maximum potential; and
- (iv) monitor participation, progress in terms of attainment levels, and completion of education, in respect of a student who is either affected by leprosy or is a member of the family of a person affected by leprosy.

(2) Where a child affected by leprosy above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age and shall be entitled to receive special training available under section 4 of the Right of Child to Free and Compulsory Education Act, 2009.

35 of 2009.

Reservations in primary, secondary and higher educational institutions.

15. (1) All Government institutions of primary, secondary and higher education, and all primary, secondary and higher education institutions receiving aid from the Government shall reserve seats in each class or course for persons affected by leprosy as provided for under the Right of Persons with Disabilities Act, 2016:

49 of 2016.

Provided that such persons shall not to be prevented from competing for seats which are not reserved for them.

(2) For the purposes of sub-section (1), reservations for leprosy-cured persons with benchmark disabilities as envisaged under sub-section (1) of section 32 of the Rights of Persons with Disabilities Act, 2016, shall also include persons affected by leprosy, who have been administered with the first dose under MDT.

49 of 2016.

CHAPTER IV

SKILL DEVELOPMENT AND EMPLOYMENT

16. (1) The appropriate Government shall, within a period of one year from the commencement of this Act, formulate schemes and programmes to facilitate and support the employment of persons affected by leprosy and members of the family of persons affected by leprosy, including measures to facilitate vocational training and self-employment of such persons.

Vocational training and self employment.

(2) The appropriate Government shall institute mechanisms for providing loans at concessional rates to persons affected by leprosy or members of the family of persons affected by leprosy for self employment ventures, and for the marketing of their products, as the case may be as provided for under the Right of Persons with Disabilities Act, 2016.

49 of 2016.

17. (1) The appropriate Government shall reserve, in every establishment owned or controlled by the appropriate Government, posts that are meant to be filled by direct recruitment, for persons affected by leprosy:

Reservations of Posts.

Provided that such persons shall not to be prevented from competing for posts which are not reserved for them.

(2) For the purposes of sub-section (1), reservations for leprosy-cured persons with benchmark disabilities as envisaged under clause (c) of sub-section (1) of Section 34 of the Rights of Persons with Disabilities Act, 2016, shall also include persons affected leprosy, who have been administered with the first dose under MDT.

49 of 2016.

18. The appropriate Government shall provide incentives to employers in the private sector in order to enable them to progressively include persons affected by leprosy as part of their workforce within a period of five years from the commencement of this Act.

Incentives to employers in the private sector.

19. The appropriate Government shall ensure that a person affected by leprosy is provided reasonable accommodation in the place of his or her employment, which is tailored to the requirements of such person.

Reasonable accommodation in employment.

Provided that the concerned person affected by leprosy shall be consulted in the provision for reasonable accommodation.

20. (1) The appropriate Government may, by notification, specify that the employer in every establishment shall furnish such information or return, as may be prescribed in relation to vacancies appointed for persons affected by leprosy, that have occurred, or are about to occur in that establishment to the special employment exchange notified and established by the Central Government under section 36 of the Rights of Persons with Disabilities Act, 2016.

49 of 2016.

Special Employment Exchange.

(2) The form, manner, and time period of providing such information or return shall be as prescribed by the Central Government under clause (e) of sub-section (2) of section 100 of the Rights of Persons with Disabilities Act, 2016.

49 of 2016.

CHAPTER V

SOCIAL INCLUSION, HEALTHCARE AND REHABILITATION

21. (1) The appropriate Government shall promulgate necessary schemes and programmes to,—

Social Security.

(a) safeguard and promote the rights of persons affected by leprosy, and members of the family of persons affected by leprosy; and

(b) ensure that persons affected by leprosy and members of the family of persons affected by leprosy have access to adequate standard of living and living conditions.

(2) The schemes under sub-section (1) shall, *inter-alia* provide,—

(a) financial assistance for income generating activities and market based vocational training for such persons affected by leprosy who have no families, or have been abandoned, or are without shelter or livelihood;

(b) access to safe drinking water and appropriate and accessible sanitation facilities especially in urban slums and rural areas, including settlements where only persons affected by leprosy and members of the family of persons affected by leprosy reside;

(c) pension to persons affected by leprosy or members of the family of persons affected by leprosy subject to such income ceiling as may be notified.

(d) unemployment allowance to unemployed persons affected by leprosy, who are registered with special employment exchange, which is notified and established by the Central Government under Section 36 of the Rights of persons with Disabilities Act, 2016 and have been unemployed for more than two years;

49 of 2016.

(e) community-based rehabilitation to persons affected by leprosy and members of the family of persons affected by leprosy as may be prescribed;

Healthcare facilities.

22. (1) The appropriate Government and local authorities shall take all necessary measures to ensure that each person affected by leprosy has barrier-free access to healthcare facilities and schemes available under section 25 of the Rights of Persons with Disabilities Act, 2016.

49 of 2016.

(2) The appropriate Government and local authorities shall take all measures necessary to ensure that healthcare providers do not subject persons affected by leprosy to;

(a) inhumane treatment or abuse during the course of medical treatment; or

(b) unethical or involuntary medical procedures or research, including in relation to vaccines, treatments or microbicides for terminal or such other diseases;

(3) The appropriate Government shall take all steps necessary to provide aids and appliances, medicine, diagnostic services and corrective surgery free of cost to each person affected by leprosy with such income ceiling as may be notified.

(4) The appropriate Government shall make schemes and programmes for the coverage of medical expenses and therapeutic interventions by a comprehensive insurance scheme for persons affected by leprosy with such income ceiling as may be notified.

Rehabilitation.

23. (1) The appropriate Government and local authorities shall undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons affected by leprosy and members of the family of persons affected by leprosy, based on the assessment of issues faced by such persons:

Provided that the appropriate Government shall give due consideration to the diversity of disabilities that affect persons affected by leprosy, and to the gender, age, and socio-economic status of such persons and the members of the family of such persons.

(2) The services and programmes under sub-section (1) shall be initiated at the earliest, and no later than one year from the date of commencement of this Act.

(3) For purposes of sub-section (1) and sub-section (2), the appropriate Government and local authorities shall, subject to fulfillment of financial and other norms, and availability of budgetary allocation, grant financial assistance to non-governmental organizations, working for the benefit of persons affected by leprosy, to provide rehabilitation services to such persons and the members of the family of such persons.

(4) Prior to the formulation of rehabilitation schemes under sub-section (1), the appropriate Government and local authorities shall consult the representatives of persons affected by leprosy, or associations of persons affected by leprosy, or non-governmental organizations working for the benefit of persons affected by leprosy.

24. (1) The appropriate Government shall conduct and promote suitable training and awareness programs for healthcare providers, public servants, and members of the general population to emphasize the importance of early treatment of leprosy through MDT and dispel misconceptions surrounding leprosy.

Promotion of training and awareness programs on leprosy.

(2) For the promotion of training and awareness under sub-section (1), the appropriate Government shall formulate and disseminate leprosy-related information in English and in regional languages and shall ensure that such information is easy to understand, age-appropriate, gender-sensitive, non-stigmatising, non-discriminatory and is revised from time to time.

CHAPTER VI

MULTI-DRUG THERAPY FOR PEOPLE LIVING WITH LEPROSY

25. The Central Government and every State Government, as the case may be, shall take all measures as it deems necessary and expedient for the prevention of the spread of leprosy, in accordance with the guidelines and protocols on leprosy under the National Leprosy Eradication Program and the National Health Mission.

Central Government and State Government to take measures.

26. The measures to be taken by appropriate Government and local authorities under sub-section (1) of Section 22 of this Act shall include provision for free-of-cost MDT to persons affected by leprosy.

Multi-Drug Therapy by Central and State Government.

CHAPTER VII

DISCLOSURE OF MEDICAL RECORDS

27. (1) Notwithstanding anything contained in any other law for the time being in force—

Disclosure of medical records.

(i) no person affected by leprosy shall be compelled to disclose his medical records except by an order of a competent Court that declares the disclosure of such information to be necessary in the interest of justice and for the determination of issues in the matter before the Court;

(ii) no person or establishment shall disclose or be compelled to disclose the medical records or any other private information of a person affected by leprosy, who has imparted such information to the person or establishment, in confidence, or in a relationship of a fiduciary nature, except with the informed consent of such person affected by leprosy or of the representative of such person obtained earlier in writing;

(2) The informed consent for disclosure of medical records under sub-section (1) is not required where the disclosure is made—

(a) by a healthcare provider to another healthcare provider who is involved in the care, treatment or counseling of a person affected by leprosy, when such disclosure is necessary to provide care or treatment to such person;

(b) by an order of a competent Court that declares such disclosure as necessary in the interest of justice and for the determination of issues in the matter before the Court;

(c) in suits or legal proceedings between persons, whether or not any of such persons, who is a party to the suit, is affected by leprosy, and where the disclosure of such information is necessary in filing suits or legal proceedings or for instructing their counsel;

(d) in relation to statistical or other information of a person affected by leprosy that could not reasonably be expected to lead to the identification of such person; and

(e) to the officers of the Central Government or the State Government, as the case may be, for the purposes of monitoring, evaluation or supervision of the incidence of leprosy within the population:

Provided that, in case of disclosure under clauses (d) and (e) the name and identity of the person affected by leprosy shall not be disclosed.

CHATER VIII

APPOINTMENT OF OMBUDSPERSONS

Appointment
of
Ombudspersons.

28. (1) Every State Government and U.T. Administration shall appoint one or more Ombudspersons—

(a) possessing such qualifications and experience as may be prescribed, or

(b) designate any of its officers not below such rank, as may be prescribed, by the State Government,

to exercise such powers and discharge such functions, as may be conferred on the Ombudsperson under this Act.

(2) The terms and condition of the service of an Ombudspersons appointed under sub-section (1) shall be such as may be prescribed by the Government or the U.T. Administration.

(3) The Ombudsperson appointed under sub-section (1) shall have such jurisdiction in respect of such area or areas as the State Government or the U.T. Administration may, by notification, specify.

Powers of
Ombudspersons.

29. (1) The Ombudsperson shall, upon a complaint made by any person, inquire into the violations of any of the provisions of this Act.

(2) The Ombudsperson may require any person to furnish information on such points or matters, as he or she consider necessary, for inquiring into the matter, and any person so require shall be deemed to be legally bound to furnish such information.

(3) Any person who fails to furnish such information as required under sub-section (2) shall be punishable under sections 176 and 177 of the Indian Penal code, 1860.

45 of 1860.

(4) The Ombudsperson shall maintain record of the inquiries conducted by him or her in such manner as may be prescribed by the State Government or the U.T. Administration.

Procedure of
complaint.

30. A complaint may be made to an Ombudsperson under sub-section (1) of Section 29 in such manner as may be prescribed by the State Government or the U.T. Administration.

Orders of
Ombudspersons.

31. (1) The Ombudsperson shall, within a period of thirty days from the receipt of the complaint under sub-section (1) of Section 29, and after giving an opportunity of being heard to the parties, pass such order, as he or she deems fit, giving reasons therefor and in such manner as may be prescribed by the State Government or the U.T. Administration.

(2) Piror to passing an order under sub-section (1), the Ombudsperson shall consult such persons or organizations, including experts on leprosy, as he or she may deem appropriate.

Authorities to
assist
Ombudspersons.

32. All authorities, including the civil authorities functioning in the area for which an Ombudsperson has been appointed under Section 28, shall assist the Ombudsperson of that area in the execution or orders passed by such Ombudsperson under Section 31.

Report by
Ombudsperson.

33. Each Ombudsperson shall, after every six months, report to the State Government or the U.T. Administration as the case may be the number and nature of complaints received, the action taken and orders passed in relation to such complaints and such report shall be published on the website of Ombudsperson and a copy thereof be forwarded to the Central Government.

CHAPTER XI

OFFENCES AND PENALTIES

Penalty for
contravention.

34. Notwithstanding any action that may be taken under any other law for the time being in force, whoever contravenes the provisions of Section 5 shall be punished with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which may extend to one lakh rupees, or with both.

35. Whoever, by words, either spoken or written, voluntarily or knowingly, publishes, propagates, advocates or communicates by signs or by visible representation or otherwise the feelings of hatred against any person affected by leprosy or member of the family of person affected by leprosy in general, or specifically, or disseminates, broadcasts or displays any information, advertisement or notice, which may reasonably be construed to demonstrate an intention or propagate hatred, or which is likely to expose persons affected by leprosy or members of the family of persons affected by leprosy to hatred, discrimination of physical violence, shall be punished with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which may extend to one lakh rupees, or with both.

Penalty for certain actions of individuals.

36. Whoever fails to comply with the order or an Ombudsperson passed under Section 31, within such time as may be specified in such order, shall be liable to pay a fine which may extend to ten thousand rupees, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which shall failure continues.

Penalty for failure to comply with orders of Ombudspersons.

37. Notwithstanding any action that may be taken under any law for the time being in force, whoever discloses information regarding the medical record of a person affected by leprosy to any person or entity, without the informed consent of such person or this or her representatives, shall be punishable with fine which may extend to one lakh rupees, unless such disclosure is made pursuant to any of the grounds mentioned under sub-section (2) of Section 27.

Penalty for breach of confidentiality.

38. Whoever fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act, or any order, regulation, or direction made, or given thereunder, he or she is duty bound to produce or furnish, or to answer any question put in pursuance of the provisions of this Act, or of any order, regulation, or direction made, or given thereunder, shall be punishable with fine which may extend to twenty-five thousand rupees in respect of each offence, and in case of continued failure or refusal, with further fine which may extend to one thousand rupees for each day of continued failure, or refusal after the date on which the original order imposing punishment of fine was passed.

Penalty for failure to furnish information.

39. (1) where any offence under this Act has been committed by an establishment, every person who, at the time the offence was committed, was the appointed head or was directly in charge of, and was responsible for the day to day functioning of the establishment, including its conduct of business, shall be deemed to be guilty of an offence, and shall be liable to be proceeded against and punished accordingly:

Offences by Establishments.

Provided that nothing contained in section 34, shall render any such person liable to any punishment provided in this Act, if it is proved that the offence was committed without the knowledge of such person, or that all due diligence was exercised by such person in order to prevent the commission of the offence.

(2) Notwithstanding anything contained in section 34, where an offence under this Act has been committed by an establishment, and it is proved that the offence has been committed with the consent, or connivance of, or is attributable to any neglect on the part of any other officer of the establishment, such person shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

40. No person shall subject any other person, or persons to any detriment on the ground that such person, or persons have taken any of the following actions, namely: —

Prohibition of victimisation.

(a) made a complaint under this Act;

(b) brought proceedings under this Act against any person or establishment;

(c) furnished any information, or produced any document to any authority exercising or performing any power or function under this Act; or

(d) appeared as a witness in a proceeding under this Act.

Court to try offences.

41. No court other than the court of a judicial Magistrate of the First Class shall take cognizance of an offence under this Act.

Offences to be cognizable and bailable.

42. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, 2 of 1974. offences under this Act shall be Cognizable and bailable.

CHAPTER X

REPEAL OF CERTAIN ENACTMENTS

Substitution of certain terms.

43. Notwithstanding any other law for the time being in force, in all laws that are in force, and in all official records of the Government of India, State Governments, and establishments defined under sub-section (f) of section 2 the term 'leper' and such other terms in national, regional and local languages, shall be substituted by the term 'persons affected by leprosy', or any other term that bears the same meaning in the national, regional or local language.

Repeal of enactments.

44. The statutes and provisions enumerated in Schedule I are hereby repealed.

Amendments to certain enactments.

45. The statutes and provisions enumerated in column I of Schedule II shall stand amended in accordance with the respective entries in column II of Schedule II.

Act to have overriding effect.

46. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any instrument having effect by virtue of any such law.

CHAPTER XI

MISCELLANEOUS

Central Government to provide funds.

47. The Central Government shall, after due appropriation made by Parliament in this behalf, provide adequate funds, from time to time, for carrying out the purposes of this Act.

Act to be in addition to and not in derogation of any other law.

48. The provisions of this Act or the rules made thereunder shall be in addition to and not in derogation of any other law, rules, orders or instructions which provide any entitlement or benefit to persons affected by leprosy.

Action taken in good faith.

49. No suit, prosecution or other legal proceeding shall lie against any person for any action or omission which is done in good faith or intended to be done in pursuance of the provisions of this Act and the rules made thereunder.

Power to remove difficulties.

50. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the said difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this Section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power to appropriate Government to make rules.

51. (1) Subject to the other provisions of this Act, the appropriate Government may, by notification in the official Gazette make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) form, manner and the value of compensation that may be awarded to a person affected by leprosy or a member of the family of persons affected by leprosy under clause (c) of sub-section (3) of section 13;

(b) form, manner and content of information required to be reported to the special employment exchange under sub-section (1) of section 20;

(c) form and manner of community-based rehabilitation for persons affected by leprosy and members of the family of such persons under clause (e) of sub-section (2) of section 21;

(d) form, manner and content of information required to be disclosed to obtain informed consent under clause (ii) of sub-section (1) of section 27;

(e) the composition, the requisite qualifications of the Ombudsperson and manner of appointment of Ombudspersons under sub-section (1) of section 28;

(f) the terms and condition of service of Ombudspersons under sub-sections (2) and (3) of Section 28;

(g) form and manner in which Ombudspersons are required to maintain records under sub section (3) of section 29;

(h) the form, manner and procedure for making a complaint to Ombudspersons under section 30; and

(i) the form, manner and content of orders that Ombudspersons can pass under section 31.

(3) Prior to the formation of rules, the appropriate Government shall make available the draft of the rules in accessible formats to the members of the public and invite their suggestions and objections to the same.

(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session, immediately following the session, or the successive sessions aforesaid, both Houses agree, in making any modification in the rule, or that the rule should not be made, the rule shall thereafter have effect only in such modified form, or be of no effect, as the case may be:

Provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(5) Every rule made by the State Government under this Section shall be laid, as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses, or where such legislature consists of one House, before that House.

SCHEDULE—I

(See Section 44)

REPEALED PROVISIONS AND ACTS

1. Repeal of clause (iv) of sub-section (I) of Section 10 of the Indian Divorce Act, 1869. 4 of 1869.
2. Repeal of sub-section (vi) of Section 2 of the Dissolution of Muslim Marriage Act, 1939. VIII of 1939.
3. Repeal of explanation (g) of Section 27 of the Special Marriage Act, 1954. 43 of 1954.
4. Repeal of clause (iv) of sub-section (1) of Section 13 of the Hindu Marriage Act, 1955. 25 of 1955.
5. Repeal of clause (c) of sub-section (2) of Section 18 of the Hindu Adoption and Maintenance Act, 1956. 78 of 1956.
6. Repeal of the proviso to Rule 6 of Metro Railways (Carriage and Ticket) Rules, 2014.

SCHEDULE—II
(See Section 45)
AMENDMENT TO CERTAIN ENACTMENTS

	Legislation	Amendment
16 of 1915.	1. The Banaras Hindu University Act, 1915	In sub-clause (a) of clause (1) of Section 12B, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will read as, namely: <i>(a) if he is of unsound mind or is a deaf-mute;</i> In sub-clause (a) of clause (1) of Section 32, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will read as, namely: <i>(a) if he is of unsound mind or is a deaf-mute;</i>
29 of 1951.	2. The Visva Bharati Act, 1951	In sub-clause (a) of clause (3) of Section 38B, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will read as, namely: <i>(a) is of unsound mind or is a deaf-mute; or</i>
53 of 1966.	3. The Jawahar Lal Nehru University Act, 1966	In sub-clause (a) of clause (1) of Section 23, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will read as, namely: <i>(a) if he is of unsound mind or is a deaf-mute</i> In sub-clause (a) of clause (1) of Section 31, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will be read as, namely: <i>(a) if he is of unsound mind or is deaf-mute;</i>
39 of 1987.	4. Legal Services Authorities Act, 1987	After sub-clause (d) of Section 12, the following sub-clause shall be inserted namely: <i>(dd) a person who suffers from, or has previously suffered or has been cured of Leprosy; or</i>
59 of 1988.	5. The Motor Vehicles Act, 1988	After the first proviso to sub-section (4) under Section 8 of the Act, the following proviso shall be inserted, namely: <i>Provided further that the licensing authority shall not refuse to issue a learners licence to a peson affected by Leprosy, who has been certified by a registered medical practitioner, as having either been cured of Leprosy, or as having been administered with the first dose under Multi-Drug Therapy, with containuing treatment for Leprosy being provided.</i>
Kerala Act No. X of 1953.	6. The Nurses and Midwives Act, 1953	In clause (c) of Section 6, the words “a leper” shall be removed, and the sub-clause will read as, namely: <i>(c) if he is of unsound mind and stands so declared by a competent Court, or a deaf-mute;</i>
Karnataka Act No. 33 of 2001.	7. The Hindu Religious Institutions and Charitable Endowments Act, 1997.	In sub-clause (ii) of clause (5) of section 25, the words “or is suffering from leprosy” shall be removed, and the sub-clause will read as, namely: <i>(ii) if he is of unsound mind and stands so declared by a competent cours or if he is a deaf or mute or any virulent or contagious disease.</i>

STATEMENT OF OBJECTS AND REASONS

The spread of leprosy and discrimination faced by persons affected by leprosy is a matter of grave concern. In 2015, India had the largest number of new leprosy cases, comprising 60% of all the cases reported globally. Approximately 1.25 to 1.35 lakh new cases are being reported every year in India for over a decade. The problem which is even more serious is that of discrimination and stigma faced by persons affected by leprosy and their families. They continue to face segregation, restrictions and exclusions within and outside family structures, in communities and public spaces, including public transportation systems. It is highly unfortunate that the discrimination being faced by these persons primarily stems from their affliction of a particular disease and its consequent effects on their body.

The General Assembly of the United Nations recognised the marginalised status of persons affected by leprosy and their family members and unanimously adopted a Resolution on the Elimination of Discrimination against Persons Affected by Leprosy and their Family Members in 2010. The Principles and Guidelines, which are appended to the Resolution of the General Assembly, direct Member States to accord to persons affected by leprosy and their family members certain protections and provisions that are necessary to bring them at par with others. Additionally, the United Nations Convention on the Rights of Persons with Disabilities, 2007 (“UNCRPD”) also promotes the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, while laying emphasis on the respect for their inherent dignity. Since India is a member of General Assembly of the United Nations as well as a signatory to both of these documents, it is under an obligation to address the concerns and eliminate discrimination against persons affected by leprosy and their family members.

Although the recently passed Rights of Persons with Disabilities Act, 2016 (“RPD Act”), intends to give effect to India’s obligations under the UNCRPD, it falls short of covering all persons affected by leprosy. In fact, only those persons who are cured of leprosy and who have 40% or above disability are covered within the ambit of the RPD Act. Hence, in terms of discrimination as well as State action, there is a pressing need to undertake a range of actions for the benefit of persons affected by leprosy and their family members. For one, it is imperative that, affirmative action and anti-discrimination measures be applicable to a range of persons, who may either be affected by leprosy, may be undiagnosed, may be under-going treatment, or may have been cured, as well as family members of such persons to holistically address the impact of stigma, fear, exclusion and invisibility faced by such persons. Another change that is necessary is the repeal and amendment of discriminatory provisions in various civil and criminal laws of India that legitimise discrimination and segregation of persons affected by leprosy on the grounds that leprosy is an incurable and highly infectious disease. As noted by the World Health Organisation, leprosy is now fully curable through Multi-Drug Therapy, which renders the infected individual non-contagious with its very first dose of treatment, and which is made available free of cost under the National Leprosy Eradication Programme of India. Consequently, the object and purpose sought to be served through these discriminatory provisions no longer hold ground and constitute a violation of the right of persons affected by leprosy to equality before law and equal protection of laws under the Indian Constitution. Since persons affected by leprosy continue to remain a highly marginalised, vulnerable and invisible section on the fringes of society, there is also a need for implementing positive steps to provide them with effective care, support and treatment, and Promote their social inclusion.

The Law Commission of India took note of the disparate situation of persons affected by leprosy and their families and came out with a study on the condition of persons affected by leprosy in India in its Report No. 256, titled “Eliminating Discrimination Against Persons Affected by Leprosy”. This comprehensive report, which deals with discriminatory laws as well as positive measures for persons affected by leprosy and their family members, was submitted to the Ministry of Law & Justice on 9th April 2015, along with a model draft law to eliminate discrimination faced by persons affected by leprosy. However, little or no action

seems to have been taken to either enact the model law, or modify or repeal any law that directly or indirectly discriminates against persons affected by leprosy.

While the Lepers Act, 1898, which sanctioned arrest and segregation of persons affected by leprosy into leper asylums, was repealed by Parliament in 2016, the Sikh Marriages Bill, 2016, which was introduced in 2016, contains a provision that allows for dissolution of marriage when a spouse is suffering from a virulent and incurable form of leprosy. The provisions under other enactments and legislations which discriminate against persons affected by leprosy continue to exist on the statute books, despite the fact that leprosy is completely curable, as mentioned by the Law Commission in its Report.

The long-standing discrimination faced by persons affected by leprosy and their families has continued to exclude such persons from participating in society and have resulted in the violation of their fundamental rights that are guaranteed to them under the Constitution of India. Moreover, term 'leper', which continues to be used in the provisions of several Central and State enactments, is nothing less than a profanity for persons affected by leprosy. Hence, enacting a law that promotes anti-discrimination measures and the social inclusion of persons affected by leprosy and their family members is imperative and urgent. Without the protection of human rights, there can be no democracy or justification for democracy. Undoing years of discrimination that the persons affected by leprosy and their family members have faced, requires immediate interventions by the State.

Hence this Bill.

K.T.S. TULSI

FINANCIAL MEMORANDUM

Clause 21 provides for social security including financial assistance for income generating activities and market based vocational training for such persons affected by leprosy. Clause 22 empowers the appropriate Government and local authorities to take all necessary measures to ensure that each person affected by leprosy has barrier-free access to healthcare facilities. Clause 23 also seeks to provide services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons affected by leprosy and members of the family of persons affected by leprosy. Clause 28 provide for appointment of ombudspersons for every State and UT. Clause 47 says that the Central Government after due appropriation by Parliament will provide adequate funds, from time to time, for carrying out the purposes of the Bill. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. The recurring and non-recurring expenditure on this count cannot be estimated at this stage, but has to be worked out by Central Government while implementing the provisions of the Act.

Clause 16 of the Bill provides for vocational training and self employment to persons affected by leprosy. Clause 18 provides for incentives by the appropriate Government to employers in the private sector in order to enable them to include persons affected by leprosy.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 51 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

V

BILL NO. XLIV OF 2017

A Bill to provide for effective protection of the Constitutional rights of vulnerable persons, to punish acts of lynching, to provide for designated courts for the expeditious trial of such offences, for rehabilitation of victims of lynching and their families and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India guarantees to all persons the right to life and personal liberty and the Equal Protection of Laws;

AND WHEREAS in recent times, there have been a spate of incidents resulting in loss of livelihood, injuries and death of persons at the hands of lynch mobs;

AND WHEREAS it is deemed necessary and expedient to enact legislation for the protection of these rights guaranteed by the Constitution;

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Protection from Lynching Act, 2017.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) The Act shall come into force within thirty days of its enactment.

Short Title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires;

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “hostile environment” means intimidating or coercive environment that is created against the victim or the family members of the victim or against any witnesses or any one providing assistance to the witness or victim, which includes being subjected to the following act—

(i) boycott of the trade or businesses of such person or making it otherwise difficult for him or her to earn a living; or

(ii) public humiliation through exclusion from public services, including education, health and transportation or any act of indignity; or

(iii) deprive or threaten to deprive such person of his or her fundamental rights; or

(iv) force such person to leave his or her home or place of ordinary residence or livelihood without his or her express consent; or

(v) any other act, whether or not it amounts to an offence under this Act, that has the purpose or effect of creating an intimidating, hostile or offensive environment.

(c) “lynching” means any act or series of acts of violence or aiding, abetting or attempting an act of violence, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds.

(d) “mob” means a group of two or more individuals, assembled with an intention of lynching.

(e) “offensive material” means any material that can be reasonably construed to have been made to incite a mob to lynch a person on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds.

(f) “victim” means any person, who has suffered physical, mental, psychological or monetary harm as a result of the commission of any offence under this Act, and includes his or her relatives, legal guardian and legal heirs of a deceased victim.

(g) “witness” means any person who is acquainted with the facts and circumstances, or is in possession of any information or has knowledge necessary for the purpose of investigation, inquiry or trial of any crime involving an offence under this Act, and who is or may be required to give information or make a statement or produce any document during investigation, inquiry or trial of such case and includes a victim of such offence.

(h) Words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1973 or the Indian Penal Code shall have the meanings assigned to them respectively in the Code of Criminal Procedure, 1973, or as the case may be, in the Indian Penal Code, 1860.

2 of 1974.

45 of 1860.

CHAPTER II

DUTIES OF POLICE OFFICER AND DISTRICT MAGISTRATE

Duties of Police Officer.

3. (1) Every police officer, directly in charge of maintaining law and order in an area shall take all reasonable steps to prevent any act of lynching including its incitement and commission; and to that end—

(i) make all possible efforts to identify instances of dissemination of offensive material or any other means employed in order to incite or promote lynching of a particular person or group of persons;

(ii) act in furtherance of the duty to prevent lynching in accordance with the powers vested in them; and

(iii) make all possible efforts to prevent the creation of a hostile environment against a person or group of persons.

(2) Every police officer shall take every possible action to the best of their ability, to prevent the commission of all offences under this Act.

2 of 1974.

4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 whenever the District Magistrate has reason to believe that in any area within his jurisdiction, a situation has arisen where there is an apprehension of lynching, he may, by order in writing, prohibit any act which in his opinion is likely to lead to the incitement and commission of an act of lynching.

Duties of District Magistrate.

(2) The District Masistrate shall take every possible action to the best of his or her ability to prevent the creation of a hostile environment against a person or group of persons.

CHAPTER III

PREVENTION OF ACTS LEADING TO LYNCHING

5. (1) It shall be duty of every police officer, in-charge of a police station to take all reasonable steps to prevent any incident of lynching, including its incitement, commission and possible spread in the area under their jurisdiction and to that end—

Duty to prevent lynching.

(i) make all possible efforts to identify patterns of violence in the area under their jurisdiction, that indicate occurrence of targeted violence;

(ii) obtain information regarding the likelihood of an act of lynching; and

(iii) act in furtherance of the duty to prevent any act of lynching in accordance with the powers vested in them;

(2) Every police officer exercising powers under this Act in discharge of their duties shall act without any delay in a fair, impartial and non-discriminatory manner.

6. (1) It shall be the duty of every police officer in-charge of a police station to exercise his authority on a mob in order to cause it to disperse.

Power to exercise authority against mobs.

(2) In exercise of his authority, a police officer in-charge of a police station may use such powers as vested under Section 129 of the Code of Criminal Procedure, 1973.

2 of 1974.

CHAPTER IV

PUNISHMENT FOR LYNCHING

7. Whoever commits and act of lynching—

Punishment for offence of lynching.

(a) where the act leads to the victim suffering hurt, shall be punished with imprisonment of either description for a term which may extend to seven years and with fine which may extend to one lakh rupees.

(b) where the act leads to the victim suffering grievous hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and with fine which may extend to three lakh rupees.

(c) where the act leads to the death of the victim, shall be punished with rigorous imprisonment for life and with fine which may extend to five lakh rupees.

8. Whoever takes part in a conspiracy or conspires to lynch another person, or abets or aides or attempts an act of lynching shall be punished in the same manner as if they had taken part in the actual incident of lynching.

Punishment for conspiracy or abetment or aides or attempt to lynch

Punishment for obstructing legal process.

9. Any person who—

(a) knows or have reasonable cause to believe that any other person is guilty of an offence under this Act, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said offence, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

(b) threatens a witness with any injury to his person or property or to the person or property of any one in whom that person is interested, with intent to cause harm to that person, or to compel that person to refrain or withdraw from being a witness in any investigation or trial under this Act shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

CHAPTER V

OTHER OFFENCES AND PUNISHMENT

Punishment for dissemination of offensive material

10. Notwithstanding anything contained in any other law for the time being in force, whoever publishes, communicates or disseminates by any method, physical or electronic, any offensive material, shall be punished with imprisonment of either description for a term of not less than one year which may extend to three years, and with fine which may extend to fifty thousand rupees.

Derelection of duty by Police Officer

11. (1) When any police officer, directly in charge of maintaining law and order in an area, omits to exercise lawful authority vested in them under law, without reasonable cause, and thereby fails to prevent lynching, shall be guilty of dereliction of duty.

Explanation.—For the purposes of this section, dereliction of duty by a police officer shall also include the following:

(i) failure to provide protection to a victim of lynching;

(ii) failure to act upon apprehended lynching;

(iii) refusing to record any information under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 relating to the Commission of an offence under this Act; and

(iv) failure to perform his duties under sections 3, 4 and 5 of this Act.

Punishment for dereliction of duty by Police Officer.

12. Notwithstanding anything contained in any other law being in force, whoever being a police officer is guilty of dereliction of duty shall be punished with imprisonment of one year, which may extend to three years, and with fine which may extend to fifty thousand rupees.

Derelection of duty by District Magistrate.

13. Whoever being a District Magistrate authorised to act under any provisions of this Act—

(a) exercised the lawful authority vested in him under this Act in a mala fide manner, which causes or is likely to cause harm or injury to any person or property; or

(b) wilfully omits to exercise lawful authority vested in him under this Act and thereby fails to prevent the commission of any act of lynching,

shall be guilty of dereliction of duty

Punishment for dereliction of duty by District Magistrate

14. Whoever being a District Magistrate is guilty of dereliction of duty shall be punished with imprisonment for a term of one year which may extend to three years, and with fine which may extend to fifty thousand rupees.

Punishment for enforcing a hostile environment

15. Whoever contributes or enforces a hostile environment on a person or a group of persons, shall be punished with imprisonment for six months.

CHAPTER VI

INVESTIGATION, PROSECUTION AND TRIAL

7 of 1974.	16. The provisions of the Code of Criminal Procedure, 1973, shall apply to this Act, save and except as amended or supplemented to the extent provided under this Chapter.	Application of Code of Criminal Procedure, 1973.
	17. Unless otherwise specified, all offences specified under this Act, shall be cognizable, non-bailable and non-compoundable.	Offences to be cognizable, non-bailable and non-compoundable.
	18. No police officer below the rank of Inspector of Police shall investigate any offence committed under this Act.	Investigation by senior Police Officers.
2 of 1974.	19. The provisions of sections 196 and 197 of the Code of Criminal Procedure, 1973 shall not apply to offences by police officers and the Court may take cognizance of such offence when satisfied that the said offence has been committed.	Sanction not required for offences under the Act.
2 of 1974.	20. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, the offences specified under this Act shall be tried by designated Judges appointed under this Act.	Cases triable by Designated Judges.
	21. (1) The appropriate Government by notification in the Official Gazette, appoint as many Designated Judges in consultation with the Chief Justice of the High Court as it may be necessary to try offences punishable under this Act.	Power to appoint Designated Judges.
2 of 1974.	(2) A person shall not be qualified for appointment as a Designated Judge or Additional Designated Judge under this Act unless he or she is or has been a Sessions Judge under the Code of Criminal Procedure, 1973.	
2 of 1974.	22. (1) In trying the accused persons, the Designated Judge shall follow the procedure for the trial of warrant cases prescribed by the Code of Criminal Procedure, 1973.	Procedure and power of the Designated Judge.
	(2) The provisions of the Code of Criminal Procedure, 1973, shall, so far as they are not inconsistent with this Act, apply to the proceedings before a Designated Judge; and for the purposes of the said provisions, the Court of the Designated Judge shall be deemed to be a Court of Session.	
2 of 1974.	(3) When trying the accused person, a Designated Judge may also try any offence, other than an offence specified under this Act, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial if the offence is connected with the offence under this Act.	
	(4) If, in the course of any trial under this Act, it is found that the accused person has committed any other offence, the Designated Judge may, whether such offence is or is not an offence under this Act, try such person of such offence and pass any sentence authorised by law for the punishment thereof.	
2 of 1974.	(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 a Designated Judge shall hold the trial of an offence on day-to-day basis save and except for reasons beyond the control of parties:	
	Provided that where a Designated Judge is unable to hold the trial of the offence on a day-to-day basis, the reasons for the same, shall be recorded in writing by the Designated Judge.	
	(6) In so far as reasonably possible, all statements of victims and witnesses should be recorded within a period of one hundred and eighty days from the date of incident.	

Rights of
victims and
witnesses
during trial.

(7) In so far as reasonably possible, it shall be the endeavour of the Court to ensure that any witness is not required to attend court on more than two dates of hearing.

23. (1) A Designated Judge may, on an application made by a witness in any proceedings before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of the witness secret.

(2) A victim shall have the right to reasonable, accurate, and timely notice of any court proceeding and shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submissions on conviction, acquittal or sentencing.

(3) The Superintendent of Police, or officer designated by him or her shall inform the victim in writing about the progress of investigations into the offence, whether or not the offender has been arrested, charge-sheeted, granted bail, charged, convicted or sentenced, and if a person has been charged with the offence, then the name of the suspected offender.

(4) The victim shall have the right to receive a copy of any statement of the witness recorded during investigation or inquiry, and a copy of all statements and documents filed under section 173 of the Code of Criminal Procedure, 1973 including the charge-sheet or closure report submitted by police.

2 of 1974.

(5) A victim shall be entitled to receive free legal aid if he or she so chooses and to engage any advocate who he or she chooses from among those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987 and the Legal Aid Services Authority established under the said Act shall pay all costs, expenses and fees of the advocate appointed by the victim or informant in accordance with relevant rules.

39 of 1987.

(6) Notwithstanding anything contained in any other law being in force, the Designated Judge trying a case may permit the prosecution to be conducted by any advocate recommended by the victim:

Provided that no person, other than the Advocate-General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to conduct the prosecution without the prior approval of the Designated Judge.

(7) Where the prosecution is conducted by an advocate recommended by the victim, the expenses arising out of such service, shall be borne by the appropriate Government.

(8) It shall be the duty and responsibility of the appropriate Government for making arrangements for the protection of victims and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence.

(9) The appropriate Government shall inform the concerned Designated Judge about the protection provided to any victim, informant or witness and the Designated Judge shall periodically review the protection being offered under this section and pass appropriate orders.

(10) It shall be the duty of the Investigating Officer to record the complaint of victim, informant or witnesses against any kind of intimidation coercion or inducement or violence or threats of violence, whether given orally or in writing and copy of the same shall be sent to the Designated Judge within twenty-four hours of recording it.

Constitution of
review
committee.

24. (1) Notwithstanding anything contained in the Code of Criminal Procedure Act, 1973, every case, registered in connection with an offence under this Act and where the Investigating Officer does not file a charge sheet within a period of three months from the date of registration of the First Information Report, shall be reviewed by a committee headed by an officer of the level of an Inspector-General of Police to be constituted by the appropriate Government and such committee may pass orders for a further investigation by another officer not below the rank of Deputy Superintendent of Police wherever it comes to the conclusion that, having regard to the nature of investigation already carried out, such investigation would be necessary.

(2) The Committee constituted under sub-section (1) may also review cases of such offences where the trial ends in acquittal and issue orders for filing appeal, wherever required.

(3) The committee shall submit a report of its findings and action taken in each case or cases to the Director General of Police.

CHAPTER VII

RELIEF & REHABILITATION

25. (1) The appropriate Government through the office of the level of Chief Secretary shall provide Compensation to victims of lynching within thirty days of the incident.

Duty to provide compensation.

(2) Where the death of a person has occurred as a consequence of lynching, the compensation for such death shall be paid to the next of kin of the deceased.

(3) While computing compensation, the appropriate Government must give due regard to the bodily injury, psychological injury, material injury and loss of earnings including loss of opportunity of employment and education, expenses incurred on account of legal and medicinal assistance:

Provided that in no case of death caused due to lynching, should the compensation given be less than twenty five lakh rupees.

26. (1) Where the offence under this Act has led to displacement of the victims from their residence, the appropriate Government shall arrange for the accommodation of the victims and take all necessary steps to rehabilitate such victims.

Displacement.

(2) Where the offences under this Act, has to led to the displacement of more than fifty persons, the appropriate Government shall setup relief camps in the manner specified under Section 27.

27. (1) In accordance with sub-section 2 of section 27, the appropriate Government shall establish relief camps in safe locations for all victims.

Establishment of relief Camps.

(2) Relief camps under sub-section (1) shall continue to be operated by the appropriate Government until such persons return to their original habitations, or are resettled in a new suitable location.

(3) Relief camps established under sub-section (1) shall, at the minimum, regardless of the circumstances and without discrimination, provide such persons with:

(a) basic shelter which is appropriate and adequate to protect the residents of the camps from extremes of the weather, and which provides due privacy especially to women and girls;

(b) twenty four hour security at the relief camp;

(c) adequate nutritious and culturally appropriate food;

(d) potable drinking water;

(e) adequate clothing which is culturally appropriate and sufficient to protect the residents of the camp from extremes of weather;

(f) essential medical services including antenatal and postnatal care of expectant mothers, paediatric care and emergency and rehabilitative services for the injured and referral services wherever necessary;

(g) adequate sanitation;

(h) psycho-social and trauma counseling and psychiatric services;

(i) child-care services for infants and small children;

(j) educational facilities for children;

(k) special facilities and assistance, as may be necessary and reasonable for the medical condition and treatment of certain residents of the relief camps, as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of households, elderly and disabled persons with special needs;

CHAPTER VIII

APPEALS

Appeals.

28. Notwithstanding anything contained in the Code of criminal procedure, 1973;

2 of 1974

(i) an appeal shall lie as a matter of right from any judgment, sentence or order, not being interlocutory order, of a Designated Judge to the High Court both on facts and on law; and

(ii) Every appeal under this section shall be preferred within a period of sixty days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of sixty days.

CHAPTER IX

MISCELLANEOUS

Power to
remove
difficulties.

29. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

Act to be in
addition to
any other law.

30. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force except to the extent the provisions of other laws are inconsistent with the provisions of this Act.

Power to make
rules.

31. The Central Government shall have the power to make rules to give effect to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The idea of India, as envisaged by our founding fathers, is of one land embracing many, a nation that may endure differences of caste, creed, colour, conviction, culture, cuisine, costume and custom and continue to maintain its composition as a pluralistic democracy, the underlying seamless web that unites India as a sovereign, socialist, secular, democratic republic. Article 21 of the Constitution of India guarantees every person the right to life and personal liberty which includes the right to a dignified existence, in celebration of one's choices and social identity.

The freedom of speech and expression under article 19 of the Constitution, which includes the freedom to express one's identity and choices without fear of repercussions, is the embodiment of the freedom that the makers of modern India dedicated their lives for. Every Indian has the right to a dignified existence irrespective of their religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity.

The rising spate of vigilantism and mob lynching on the basis of one's individual identity and choices threatens the notion of an all-embracing India and is a direct threat to the Constitutional ethos of our country. This, therefore, necessitates the need for a special law to aid vulnerable individuals and communities.

The act of wilful omissions and commissions by the custodians of the State, which facilitates mob lynching, must be recognized as a criminal act under the eyes of the law. The State must act as the bulwark of the freedoms enshrined in the Constitution of India, and special procedures are required to ensure an effective and independent prosecution of crimes, to deter the growing number of vigilante groups which act with impunity, in contempt of the secular fabric of India.

Therefore, there is an urgent requirement to re-enforce the founding values of our nation through special laws and procedure to curb mob lynching and related violence against an individual Indian citizen's identity.

Hence this Bill.

K.T.S. TULSI

FINANCIAL MEMORANDUM

Clause 21 of this Bill provides for the appointment of Designated Judges to try offences under this Bill. Sub-clause 6 of Clause 23 of this Bill also mandates the appropriate governments to remunerate the expenses arising out of the prosecution in the manner set forth under such provision. Clause 25 to 27 of this Bill mandates various forms of compensatory, reliefs and rehabilitation measures which need to be undertaken by the appropriate Governments. The maintenance of convicts and under trials, under this Bill, in the prisons of States and Union Territories will also require certain expenses. The expenditure relating to States shall be borne out of the Consolidated Funds of respective States. The expenditure relating to Union territories shall be incurred from the Consolidated Fund of India. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees two hundred crore per annum would be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

VI**BILL NO. XLVI OF 2017**

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (i) This Act may be called the Constitution (Amendment) Act, 2017.

Short title and
commencement.

(ii) It shall come into force with immediate effect.

2. In article 15 of the Constitution,—

Amendment
of article 15.

“(i) in clause (1), after the words “place of birth”, the word “disability” shall be inserted.

(ii) in clause (2), after the words “place of birth”, the word “disability” shall be inserted.

(iii) in clause (4), after the words “the Scheduled Tribes”, the words “or the persons with disabilities” shall be inserted.

(iv) in clause (5), after the words “the Scheduled Tribes”, the words “or for persons with disabilities” shall be inserted.

Amendment
of article 16.

3. In article 16 of the Constitution,—

(i) in clause (2) after the words “place of birth, residence”, the word “disability” shall be inserted.

(ii) in clause (4) after the words “under the State”, the words “or in favour of the persons with disabilities” shall be inserted.

Amendment
of article 39.

4. In article 39 of the Constitution,—

(i) in sub-clause (a) for the words “and women”, the words “, women and persons with disabilities” shall be substituted.

(ii) in sub-clause (d) for the words “and women”, the words “, women and persons with disabilities” shall be substituted.

(iii) in sub-clause (e) for the words “and women”, the words “, women and persons with disabilities” shall be substituted.

Insertion of
new article
46A.

5. After article 46 of the Constitution, the following be inserted, namely:—

Promotion of
educational
and economic
interests of
persons with
disabilities.

"46A. The State shall promote with special care the educational and economic interests of persons with disabilities and shall protect them from social injustice and from all forms of exploitation.

STATEMENT OF OBJECTS AND REASONS

Persons with disabilities remain one of the most marginalised communities in the country. Occurrences of stigma and discrimination are common in the lives of these persons. This is despite India's engagement with international conventions for persons with disabilities. India had adopted the Proclamation on the Full Participation and Equality of Persons with Disabilities in the Asian and the Pacific Region in December, 1992. Nine years after India ratified the United Nations Convention on the Rights of Persons with disabilities (UNCRPD) in 2007, the Rights of Persons with Disabilities Act, 2016 came into force. The Act aimed to empower persons with disabilities by providing legal redress against discrimination, access to education and employment.

Despite the 22 year long existence of Persons With Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995; its revamp through Rights of Persons with Disabilities Act, 2016 and India's ratification of UNCRPD, progress has been slow. 70 million disabled Indians continue to face discrimination and don't get access to public services, formal employment and education. Reportedly only seven states have a separate department for dealing with matters concerning persons with disability. According to the World Disability Report 2011, 87% of persons with disabilities work in the informal sector in India. The same report also pointed that the share of disabled children not enrolled in schools in the more prosperous states in India is more than five times the national rate. The Ministry of Social Justice and Empowerment is responsible for special schools for children with disabilities while the Department of Education is responsible for children in mainstream schools. This segregation has developed a cultural perception that more than equality of opportunity, children with disabilities are in need of welfare. These perceptions lead to stereotyping children with disabilities and breed negative attitudes.

The Hon'ble Supreme Court in the case of *Jeeja Ghosh versus Union of India* observed that, equality not only implies preventing discrimination, but goes beyond in remedying discrimination against groups suffering systematic discrimination in society. In concrete terms, it means embracing the notion of positive rights, affirmative action and reasonable accommodation. The move from the patronising and paternalistic approach to persons with disabilities represented by the medical model to viewing them as members of the community with equal rights has also been reflected in the evolution of international standards relating specifically to disabilities, as well as in moves to place the rights of persons with disabilities within the category of universal human rights.

Although Section 3 of the Rights of persons with Disabilities Act, 2016 ensures equality and non-discrimination the same has not been matched with amendments in the Constitution.

Therefore, it has been proposed that Article 15, Article 16 and Directive Principles of the Constitution be amended so that all policies, laws and regulations are designed keeping in view the interests of persons with disabilities. It will empower persons with disabilities as they can seek redressal for violation of their fundamental right against discrimination. By amending its Constitution, India will join the league of developed nations like Canada, Germany, UK that guarantee equal Rights to persons with disabilities in their Constitution.

Hence this Bill.

HUSAIN DALWAI

VII

BILL NO. XLIII OF 2017

A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.

BE it enacted by the Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title
and
commence-
ment.

1. (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.

(2) It shall come into force with immediate effect.

Amendment
in long title.

2. In the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), in the long title for the word “fourteen” the word “eighteen” shall be substituted. 35 of 2009.

Amendment
of section 2.

3. In the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), in section 2— 35 of 2009.

(i) in clause (c), for the word “fourteen” the word “eighteen” shall be substituted.

(ii) in clause (n), after the words “elementary education”, the words “and secondary education” shall be inserted.

(iii) after clause (o), the following clause shall be inserted, namely:—

“(p) secondary education means the education from ninth to twelfth class wherein classes ninth and tenth constitute the secondary stage and classes eleventh and twelfth constitute the higher secondary stage;”

4. In section 3 of the principal Act, in clause (1),

Amendment
of section 3.

(i) for the word “fourteen” the word “eighteen” shall be substituted; and

(ii) for the word “elementary” the words “elementary and secondary” shall be substituted.

5. In section 4 of the principal Act,—

Amendment
of section 4.

(i) for the word “elementary” the words “elementary and secondary” shall be substituted; and

(ii) for the second proviso the following be substituted, namely:—

“Provided further that a child so admitted to elementary or secondary education shall be entitled to free education till completion of secondary education even after eighteen years”.

6. In section 5 of the principal Act, in clauses (1) and (2) for the word “elementary” the words “elementary and secondary” shall be substituted.

Amendment
of section 5.

7. In section 8 of the principal Act, for the words “elementary” and “fourteen” wherever they occurs the words “elementary and secondary” and “eighteen” shall respectively be substituted.

Amendment
of section 8.

8. In section 9 of the principal Act, for the words “elementary” and “fourteen” wherever they occurs the words “elementary and secondary” and “eighteen” shall respectively be substituted.

Amendment
of section 9.

9. In section 10 of the principal Act, for the words “an elementary education” the words “a pre-school and if not at least to an elementary education” shall respectively be substituted.

Amendment
of section 10.

10. In section 11 of the principal Act, for the word “may” the word “shall” shall be substituted.

Amendment
of section 11.

11. In section 12 of the principal Act, for the word “elementary” wherever it occurs the words “elementary and secondary” shall be substituted.

Amendment
of section 12.

12. In section 14 of the principal Act, in clause (1) for the word “elementary” the words “elementary and secondary” shall be substituted.

Amendment
of section 14.

13. In section 33 of the principal Act, in clause (1) for the word “elementary” the words “elementary and secondary” shall be substituted.

Amendment
of section 33.

14. In section 34 of the principal Act, in clause (1) for the word “elementary” the words “elementary and secondary” shall be substituted.

Amendment
of section 34.

15. In section 38 of the principal Act, in clause (2)—

Amendment
of section 38.

(i) in sub-clause (c) for the word “fourteen” the word “eighteen” be substituted; and

(ii) in sub-clause (o), for the word “elementary” the words “elementary and secondary” shall be substituted.

16. In the Schedule to the principal Act,—Amendment
of Schedule.

(i) in Sl. No. 1, after item (b), the following shall be inserted, namely,—

“(c) For ninth class to twelfth class

(i) at least one teacher for every thirty children;

(ii) subject wise Trained Graduate Teacher and Post Graduate Teacher;

(iii) specialized teachers for Physical Education, Art or Craft and Culture Education;

(iv) counselor for emotional and psychological support, as per school counseling programme;

(v) career counselor.”

(ii) in Sl. No. 2, in norms and standards, after (vii), the following shall be inserted, namely,—

“(viii) one integrated science laboratory — for Physics, Chemistry, Biology and Mathematics for classes ninth to twelfth (one room for science laboratory in a secondary school and at least three laboratories for science subjects in higher secondary schools;

(ix) computer room for classes ninth to twelfth;

(x) art or Craft Culture Laboratory;

(xi) provisions to make the building disabled friendly;

(xii) a rainwater harvesting system;

(xiii) classrooms with a classroom — pupil ratio of 1:40 for classes ninth to twelfth;”

(iii) in Sl. No. 3, in norms and standards, after (iv), the following shall be inserted, namely,—

“(v) a minimum of two hundred and twenty working days for classes ninth to twelfth;”

(vi) one thousand two hundred hours per academic year for the teaching and planning, out of which not more than two hundred hours may be required to be devoted for remedial teaching and attention to weak students for ninth classes and tenth class;

(vii) one thousand two hundred hours per academic year for teaching and planning, out of which not more than two hundred hours may be required to be devoted for remedial teaching and attention to weak students for eleventh class and twelfth class.”

(iv) Sl. No. 5 shall be deleted.

(v) for Sl. No. 7, the following shall be substituted, namely,—

“7. Teaching learning equipment—

(i) shall be provided to each classes as required;

(ii) necessary equipment for Physics, Chemistry, Biology and Mathematics will be needed initially to facilitate academic activities in laboratories for classes ninth to twelfth;

(iii) sports, music, dance, painting, culture, teaching aids.”

STATEMENT OF OBJECTS AND REASONS

Secondary education is an important stage in the educational hierarchy. It is essential to ensure greater access to secondary education by making it free and compulsory. The vision of Rashtriya Madhyamik Shiksha Abhiyan (RMSA) was to make good quality education available, accessible and affordable to all young persons in the age group of 14-18 years. Among the other goals, it aims to achieve Universal retention by 2020, a Gross Enrollment Ratio of 100% by 2017 and access to education with special references to economically weaker sections of the society. The guiding principle of this policy includes Universal Access.

India adopted 17 Sustainable Development Goals by the United Nations in 2015. Goal 4 aims to ensure inclusive and quality education for all. It highlights that getting access to quality education can help set a strong foundation to improve lives. It also points out that while several countries have achieved gender equality in primary education, very few have managed to achieve the target at all levels of education.

India has shown tremendous progress in primary education with the implementation of the Right of Children to Free and Compulsory Education (RTE) Act, 2009. However, there have not been adequate parallel initiatives to ensure access to secondary education. As per the 2016 report by United Nations Educational, Scientific and Cultural Organisation (UNESCO) Institute for Statistics and Global Education Monitoring, 47 million youth drop out of school by the 10th standard in India. The literacy rates for the 15 and above age groups remains average at 59.3% for females and 78.8 for males in 2011. Similarly, the Gross Enrollment Ratio was at 78.5% for students in the Secondary level of school education in 2014-15. This means that 25.5% of the students in this age group do not enroll themselves in schools. In 2013-14, the annual dropout rate of students in the secondary level of school education stands high at 17.86%. For Scheduled Tribe students, it is staggering at 27.2% and 18.66% for Scheduled Caste students.

Therefore, it has been proposed that the coverage for RTE Act, 2009 be extended to 3 to 18 years. This will cover the secondary level of education and help India achieve the Sustainable Development Goal of Quality Education as well as the objectives set under RMSA. It will also encourage State Governments to strengthen their anganwadi system or create more pre-schools. As a result, India will truly be able to ensure universal access to education to all children in the age group of 3 to 18 years.

Hence this Bill.

HUSAIN DALWAI

FINANCIAL MEMORANDUM

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. The Government of India incurred an expenditure of Rs. 3562 crores in 2015-16 on Rashtriya Madhyamik Shiksha Abhiyan. The Budget for the scheme in 2016-17 was 3700 crores while in 2017-18, it was 3830 crores. It is increased by about 3.5% every year. This Bill will involve an expenditure that will be about 15% more than the expenditure on the scheme. Therefore, it is estimated that an annual recurring expenditure of about rupees 4,558 crore is likely to be involved.

VIII**BILL NO. XLV OF 2017**

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by the Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2017.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

2. After section 141 of the Indian Penal Code, 1860, the following proviso shall be inserted, namely:—

Amendment
of section 141.

“Provided that nothing in this section shall apply to peaceful protest on public roads or streets.”

STATEMENT OF OBJECTS AND REASONS

Section 141 of the Indian Penal Code, 1860 declares an assembly of five or more persons as unlawful for various purposes including holding public meetings by the road side. The Division Bench of Kerala High Court has banned holding public meetings beside public roads and directed the police, public works department and local self-Government not to grant permissions to hold such meetings and asked the police to take legal action against violation.

The Constitution also allows the State to impose reasonable restrictions on the fundamental rights. But it also explains the concrete conditions in which such restrictions can be imposed. The Constitution states that such restrictions can be imposed only in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign countries, public order, decency or morality or in relation to contempt of court or defamation or incitement of an offence.

The Bill proposes to protect the fundamental rights of the citizens from any infringement due to State intervention.

Hence this Bill.

K.K. RAGESH

DESH DEEPAK VERMA,
Secretary-General